ENVIRONMENTAL Fact Sheet

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

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Wetlands Permitting: Priority Resource Area

The NHDES Wetland Rules group selected high-value wetland resource areas into a new category known as "Priority Resource Area" (PRA). A PRA is an area protected under the Wetlands law, RSA 482-A. A PRA has one or more of the following characteristics: 1) Protected species or habitat; 2) A bog; 3) Is a wetland in a floodplain of a river where the location has a drainage area of at least one square mile or is a tidal area; 4) A designated prime wetland or a duly-established 100-foot buffer to a prime wetland; 5) Is a sand dune, tidal wetland, tidal water or undeveloped tidal buffer zone (Env-Wt 103.65).

The presence of a PRA on a potential project site may affect permitting of your project. The following sections describe the resources that are **priority resource areas.** In addition, we describe the online tools available to conduct screening for PRAs as part of the Required Planning for All Projects under Env-Wt 306.05.

The two online tools available are the Natural Heritage Bureau (NHB) NHB DataCheck Tool and the NHDES Wetlands Permit Planning Tool. NHB maintains data on locations of protected species and habitat and exemplary natural communities. A project applicant can find out if there are NHB records in the vicinity of a proposed project. The Wetlands Permit Planning Tool provides screening-level data in map layers with various permit-related themes.

Protected Species or Habitat

Screening method: NHB DataCheck Tool

Protected species and habitat (Env-Wt 103.68) includes any threatened or endangered species, eagle species, habitat of such species that is determined to be critical by the executive director of the New Hampshire Fish and Game Department (NHFG), or any exemplary natural community as identified by the Natural Heritage Bureau (NHB).

Results from the NHB DataCheck Tool are valid for one year from the date indicated on the NHB DataCheck Results Letter.

Under state and federal laws and rules, no activity shall jeopardize the continued existence of protected species and habitat. Moreover, no activity shall jeopardize the continued existence of a species proposed for listing as threatened or endangered, or designated or proposed critical habitat under the following state and federal laws, Federal Endangered Species Act, State Endangered Species Conservation Act, and the New Hampshire Native Plant Protection Act.

Figure 1. *Bald eagles and their habitat are protected.*

Bogs

Screening method: Wetlands Permit Planning Tool

Figure 2. *Bogs are a protected wetland type.*

A **bog** (Env-Wt 102.30) is a wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, highly acidic soil conditions, highly acidic water conditions, or any combination of those (Env-Wt 103.01). The Wetlands Permit Planning Tool provides a map layer for peatlands, that includes open and forested peatlands and bogs. As Peatlands are broader and include mineral oligotrophic peatlands, careful review is needed to identify an organic "bog." Field inspection of a peatland in the area of interest is necessary to document the presence of a "bog." The University of New Hampshire's "Peatlands" webpage and brochure are excellent resources for general information about open peatlands.

Changes in nutrients, water quality or hydrologic inputs to peatlands can convert them to non-peatland wetlands that may not be suitable for the original plants and animals. Peatlands play a vital role in carbon and nitrogen cycling. However, peatlands across the globe may be at risk due to climate change, which may push these communities farther north.

Floodplain Wetlands on Tier 3 Watercourse

Screening method: Wetlands Permit Planning Tool

Floodplain wetland on a Tier 3 watercourse is a **wetland** that meets two criteria: 1) it is located within a **100-year floodplain** (Env-Wt 103.10) as designated on the current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map **and** 2) it is on a watercourse with a contributing watershed that is at least 640 acres (one square mile) in size.

Figure 3. *Floodplain wetlands on Tier 3 watercourses are protected wetland types.*

Wetlands in floodplains include forested wetlands, fens, vernal pools and oxbow marshes. Floodplain wetlands provide important flood storage areas and play a role in reduction in the frequency and intensity of floods by acting as natural buffers, soaking up significant amount of floodwater. See EPA's Fact Sheet on the Economic Benefits of Wetlands.

These wetlands are important breeding areas for some amphibians, including Jefferson salamander and northern leopard frog, and also provide habitat for reptiles, such as wood turtle, Blanding's turtle, and spotted turtle (WAP, 2015). Woody plants in floodplains act to slow floodwaters, minimizing downstream flooding by reducing peak flows and allowing sediment to drop out thus maintaining water quality. Additionally, studies such as Restore Wetlands to Cut Flood Costs, Phosphorus Pollution: TNC-Gund Study, regarding restoration of floodplain wetlands, show they can achieve a significant reduction in pollutants.

UNH's Floodplain Forests UNH's Floodplain Forests webpage and brochure are excellent resources for information about this type of floodplain wetland.

Designated Prime Wetlands and their 100-foot Duly-Established Buffers

Screening method: Wetlands Permit Planning Tool

Figure 4. *Designated prime wetlands have special protection.*

Designated prime wetlands are specific high-value wetlands that have been designated by a municipality pursuant to RSA 482-A:15 and Env-Wt 700. Location information to screen for prime wetlands may be found on the NHDES website, as static maps (by town), and as a data layer in the Wetlands Permit Planning Tool.

The duly-established 100-foot buffer (Env-Wt 102.62) is a PRA associated with prime wetlands that were designated within a certain time frame (between two legislative changes to RSA 482-A). For those municipalities that designated one or more prime wetlands after September 11, 2009 but before August 17, 2012, the 100-foot buffer on those designated prime wetlands is now referred to as a **duly-established 100-foot buffer**. Due to the language in the law preceding or after that date range, the state has no jurisdiction under RSA 482-A on any prime wetlands buffer, although the local municipality may have jurisdiction under local zoning. Buffers provide habitat for many species of wildlife and benefits to water quality.

Figure 5*. The duly-established 100-ft buffer for certain designated prime wetlands is shown as a pink band in the WPPT.*

Sand Dunes, Tidal Wetlands, Tidal Waters, or Undeveloped Tidal Buffer Zones

Screening method: Wetlands Permit Planning Tool

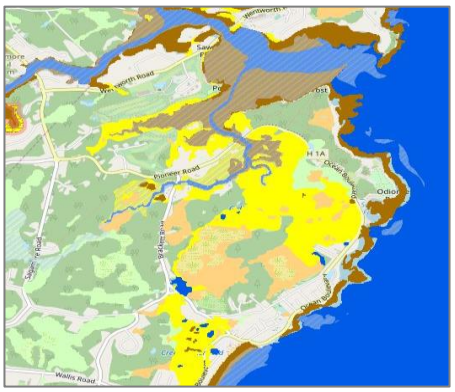

Figure 5*. Coastal wetlands are some of New Hamphire's rarest and most threatened types.*

New Hampshire's coastal lands and waters are valuable and in limited supply, and thus considered PRAs. Sand dunes provide a first line of defense against storm surges. Many birds depend on coastal sand dunes for breeding, migration or wintering, including the state endangered and federally threatened piping plover, horned lark and least tern. Tidal wetlands are subject to regular inundation by tides, and tidal buffer zones not only protect the wetlands but provide a migration path for tidal waters rising due to sea level rise.

The WPPT provides screening level information for sand dunes, tidal wetlands, salt marshes, mudflats and tidal waters.

Permitting Requirements for Wetlands Projects

Before planning a project in jurisdictional areas under RSA 482-A, a permit applicant must conduct required planning (Env-Wt 306.05(a)(2)). A permit applicant must determine if the property on which the project is proposed contains a PRA. The presence of a PRA may affect impact classification of the project. In addition, there are specific requirements associated with impacts to these sensitive or high value resource areas.

Project Classification

Where the presence of a PRA may be the only criterion that elevates a project to a major impact, for some project types there are some criteria that may allow a "downgrade" based on the PRA present, type of project or documentation provided.

- Certain projects under a Statutory Permit-by-Notification (SPN) where there is a documented occurrence of one or more protected species or habitat and NHB or NHFG recommendations are obtained.
- Where an applicant seeks and NHDES approves a prime wetland waiver for certain projects (such as a Forestry SPN).
- A project is for maintenance, repair or rehabilitation of existing legal shoreline structures, tidal or non-tidal (Env-Wt 406.04(c)).
- A stream or wetland restoration/enhancement project (under Env-Wt 525) funded in whole or in part with public funds from a federal, state or local agency, conducted under supervision of a New Hampshire state agency established to manage or protect natural resources – UNH, EPA, NRCS, NOAA, U.S. Forest Service or U.S. Fish and Wildlife Service – and is not subject to a removal or restoration order.

Special Requirements for Projects that Propose Permanent Impacts PRAs

- Review and complete the Wetlands Standard Dredge and Fill Application criteria and design requirements and provide any additional minimization and avoidance design features.

  Additional avoidance and minimization design features may include:

  - Use of wildlife-friendly erosion control materials when an erosion control blanket is used (Env-Wt 307.03(c)).
  - Provide a no-cut setback to reduce impacts on specific endangered or threatened species or protect aquatic habitat by preventing impacts to water temperatures, for example.
- If additional avoidance and minimization design features cannot be accommodated or are insufficient, propose compensatory mitigation in accordance with Env-Wt 800 (Env-Wt 311.01(c)).
- Provide off-site alternatives analysis where required by Demonstration of Avoidance and Minimization (Env-Wt 311.07).
- No permanent fill is allowed in a PRA unless specifically allowed in an applicable project-specific provision;

References

Wildlife Action Plan. NH Fish and Game Department. 2015. Concord, NH.